

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

John Raines and Tim McGough, as Trustees of the Carpenters & Joiners Welfare Fund and Twin City Carpenters Pension Master Trust Fund; John Raines as Trustee of the Carpenters and Joiners Apprenticeship and Journeymen Training Trust Fund, and each of their successors,

Court File No.: 15-cv-01193 JNE-HB

**JOINT RULE 26(f) REPORT
(ERISA CASES)**

Plaintiffs,

vs.

Doran Construction, Inc.,

Defendant.

Pursuant to Rule 16 of the Federal Rules of Civil Procedure, a pretrial conference will be held on **May 6 at 8:30 a.m.**, before United States Magistrate Judge Hildy Bowbeer, in Chambers – Room 632, Warren E. Burger Federal Building and U.S. Courthouse, 316 North Robert Street, Saint Paul, Minnesota 55101.

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, counsel met on April 22, 2015, and prepared the following report:

Discovery is allowed in ERISA disability benefit cases only if the parties agree or upon Court order. If the parties agree to discovery, or a party moves the Court for discovery, the following schedule and limitations apply:

DISCOVERY SCHEDULE/DEADLINES & LIMITATIONS

1. All pre-discovery disclosures required by Rule 26(a)(1) shall be completed on or before May 20, 2015.
2. Any motion to allow discovery shall be filed on or before N/A. The parties agree that discovery is appropriate in this action, and note that this is case is not an ERISA disability benefit case.
3. The parties do wish to engage in some form alternative dispute resolution after Rule 26(a)(1) disclosures but before formal discovery is commenced.
4. Fact discovery, if allowed, shall be commenced in time to be completed on or before November 1, 2015.

5. The parties do not believe that discovery should be conducted in phases or limited to or focused on certain issues or certain sources before others.
6. No more than a total of 25 interrogatories, counted in accordance with Rule 33(a), shall be served by each side. Unlimited document requests and no more than 25 requests for admissions shall be served by each side.
7. No more than 10 depositions, excluding expert witness depositions, shall be taken by either side. Where appropriate, the parties are encouraged to discuss possible additional agreements concerning limitations on the number and/or length of depositions, the arrangements that may be needed for depositions taken outside the U.S. and/or in a language other than English, and other issues that, if addressed early, could make deposition discovery more cost-effective and avoid costly and time-consuming disputes.
8. The parties have agreed upon the following additional limitations on discovery devices: N/A.
9. The parties are finalizing an ESI Protocol and anticipate filing it with the court at or near the same time as this Report.

EXPERTS

The parties anticipate that they will require expert witnesses at time of trial.

1. Each side may call up to 3 expert witnesses. Accordingly, each party may take one deposition per expert.
2. Disclosure of the identity of expert witnesses under Rule 26(a)(2)(A) and the full disclosures required by Rule 26(a)(2)(B), accompanied by the written report prepared and signed by the expert witness, shall be made as follows:
 - a. Identities by the party with the burden of proof¹ on or before October 1, 2015.
Reports by the party with the burden of proof on or before November 1, 2015.
 - b. Rebuttal identities and disclosures on or before December 1, 2015.
Reports of Rebuttal experts on or before January 1, 2015.
3. Expert discovery, including depositions, shall be completed by January 30, 2015.

¹ The parties should indicate whether, given the issues in the case, it would be more meaningful to identify the deadlines for the disclosing party by who bears the burden of proof on an issue rather than by plaintiff or defendant.

NON-DISPOSITIVE MOTION DEADLINES

1. Except as provided in paragraph 3 below, all motions that seek to amend the pleadings or to add parties must be filed and served on or before June 15, 2015.
2. Except as provided in paragraph 4 below, all non-dispositive motions and supporting documents, including those that relate to fact discovery, shall be filed and served on or before December 1, 2015. [NOTE: Absent unusual circumstances, this date should be no more than one month following the close of fact discovery.]
3. All motions that seek to amend the pleadings to include punitive damages, if applicable, must be filed and served on or before N/A. The parties do not believe that punitive damages are available in this action.
4. All non-dispositive motions and supporting documents that relate to expert discovery shall be filed and served on or before March 1, 2016 [NOTE: Absent unusual circumstances, this date should be no more than one month following the close of expert discovery.]

PROTECTIVE ORDER

The parties are finalizing a protective order and anticipate filing it with court at or near the same time as this report.

DISPOSITIVE MOTION DEADLINES

The parties **do** believe that expert discovery must be completed before dispositive motions are filed. The parties recommend that all dispositive motions be filed and served (and heard or scheduled, depending on District Judge assigned) on or before April 1, 2016.

SETTLEMENT

1. The parties have discussed whether private alternative dispute resolution (ADR) will be helpful to the resolution of this case and recommend the following to the Court:

The parties do not believe that private ADR would be beneficial to the resolution of this case, at least prior to the conclusion of discovery.

TRIAL

1. Trial by Magistrate Judge

The parties **have not** agreed to consent to jurisdiction by the Magistrate Judge pursuant to Title 28, United States Code, Section 636(c). (If the parties agree, the consent should be filed with the Rule 26(f) Report.)

2. This case shall be ready for trial on September 1, 2016. The anticipated length of **jury** trial is 3-5 days.

DATE: April 29, 2015

s/ Amanda R. Cefalu
Amanda R. Cefalu (#309436)
arc@andersonhelgen.com
ANDERSON, HELGEN, DAVIS & CEFALU, PA
333 South Seventh Street, Suite 310
Minneapolis, MN 55402
Telephone: (612) 435-6349

ATTORNEYS FOR PLAINTIFFS

DATE: April 29, 2015

s/ Anthony de Sam Lazaro
Marko J. Mrkonich (#125660)
mmrkonich@littler.com
David J. Goldstein (#0175572)
DGGoldstein@littler.com
Anthony de Sam Lazaro (#0390802)
AdSLazaro@littler.com
LITTLER MENDELSON, P.C.
1300 IDS Center
80 South 8th Street
Minneapolis, MN 55402.2136
Telephone: 612.630.1000

**ATTORNEYS FOR DEFENDANT/
COUNTERCLAIM PLAINTIFF**

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